



NOTTINGHAMSHIRE
Fire & Rescue Service
Creating Safer Communities

Nottinghamshire and City of Nottingham
Fire and Rescue Authority
Community Safety Committee

FIRE PROTECTION DEPARTMENT UPDATE

Report of the Chief Fire Officer

Agenda Item No:

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Purpose of Report:

To provide Members with an update on Fire Protection Activity.

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1. BACKGROUND

- 1.1 The Regulatory Reform (Fire Safety) Order 2005 (FSO) came into effect in October 2006 and replaced over 70 pieces of fire safety law. The requirements for enforcement in the FSO were not new to Fire and Rescue Authorities as there were close similarities with the Fire Precautions (Workplace) Regulations 1997. However, the FSO covers a far larger range of premises including:
 - Non domestic premises including common parts of houses in multiple occupation;
 - Premises used by self employed (including family run businesses);
 - Premises used by the voluntary sector.
- 1.2 Exceptions include Crown occupied/owner properties, premises in armed forces establishments, certain specified premises including construction sites, ships under repair and construction, nuclear installations; and sports grounds and stands designated as needing a safety certificate by a local authority.
- 1.3 Article 26 of the FSO requires that every enforcing authority must enforce the provisions of the Order and any regulations made under it. The Chief Fire Officer has responsibility to ensure that the Service fulfils any requirement made on the Fire Authority within the FSO.
- 1.4 Fire safety enforcement activities are designed to ensure the Fire Authority's statutory requirements, under the remit of the Fire Safety Order (2005) (FSO), are met and that risk to life and property is reduced.
- 1.5 The enforcement of fire safety is a critical element of the Nottinghamshire Fire and Rescue Service Plan and the Authority's strategy for the enforcement of fire safety forms a key part of its overall strategy for the protection of its community. Fire Protection will ascertain the risks in the community, analyse them and assign resources in the most effective way to reduce or eliminate those risks.
- 1.6 This report builds on previous reports to the Committee and highlights how the fire protection department's activities contribute to community safety. The report will be supported by a presentation which will focus on how the department will:
 - Maintain a risk-based approach to enforce our statutory responsibilities;
 - Meet the fire safety enforcement statutory requirements;
 - Continue to reduce unwanted fire signals;
 - Will prepare for the impact of the localism bill and other changes relating to deregulation.

2. REPORT

Risk Based Approach to Inspections

- 2.1 The Fire Protection inspectorate consists of 21 Officers, some of whom are Operational, have management responsibilities and are conditioned to different duty systems and Conditions of Service etc. Additionally, each Officer will be at a different stage of development and may also have additional responsibilities that reduce available time for Fire Protection inspection activity. Based on this information the inspection capacity of the Department can be calculated.
- 2.2 Fire Protection staff collect high quality risk data about premises, and prioritise inspections based upon the level of risk. This enables the service to target prevention, protection and response options effectively, efficiently and in a verifiable manner. The inspection activity aims to reduce the risk and impact of fire on the community, safeguard fire fighters, protect heritage and the environment. It also reduces loss of life, injuries and economic and social costs.
- 2.3 The risk-based inspection programme is a key part of the overall community safety fire risk reduction strategy. The Fire Safety Order makes a risk assessment approach central to determining the necessary level of fire precautions in premises.
- 2.4 Premises managed by public, commercial or voluntary organisations which present the highest risk are inspected on a more frequent basis. Those premises considered to be lower risk are inspected primarily in response to complaints, or on a sample basis to verify their lower risk classification.
- 2.5 Fire Protection relies heavily on quality data sets, and this is predominantly contained within the Community Fire Risk Management Information System (CFRMIS). Such is the importance of data within the risk management process a full time 'Coordinator' of CFRMIS is in place. This ensures there is an ongoing process of refining and identifying issues relating to the datasets contained within the system and how they impact upon the Fire Protection aspect of service delivery.
- 2.6 The Fire Protection department has changed significantly over the last few years to ensure the delivery model is as efficient as possible. This has been achieved by restructuring the department and converting some roles to non-uniformed Inspecting Officers, utilising technology to enable mobile working and modernising Inspecting Officer processes.
- 2.7 A proposed web based version of CFRMIS is being progressed and once the implementation project is complete it will increase the ability to work remotely and reduce the requirement to return to base, and therefore release more time for inspection activity.

- 2.8 Due to the risk based approach taken in the inspection regime, there are a range of different activity types available to the Officer to enable an appropriate response relative to the different circumstances and risks they may find. These are defined below:

Audit

The 'Fire Safety Audit and Data Gathering Form' is the principle tool at the heart of the inspection programme. It enables the Officer to collect identification and risk data about premises in a systematic and consistent manner. In pre-planning these inspections it will be expected that a minimum of four weeks notice is given to the responsible persons at the premises.

Thematic

Designed to allow the Officer to visit the premises, gather some critical data (as per the Audit process) and assess the general risk in a shorter time than a full audit would take. For example a number of small hotels which had previously not been visited by the Service, could form the basis of thematic inspections. The risks could then be assessed and decisions taken on any future actions. These inspections can also be used in assessing the risk(s) within multi-occupied premises.

Follow up

A follow-up inspection is one which is carried out in order to ascertain the progress made in carrying out the measures required or recommended following a previous visit; e.g. steps included in a notice of deficiencies issued under the Regulatory Reform (Fire Safety) Order 2005.

Peak risk inspection

There is an increased risk within certain premises when they are operating at their 'peak risk'. For example, it may well be necessary, on occasion, to visit licensed premises when they are operating at or near to full capacity or to visit premises with overnight life risk at times when staffing levels may be reduced, or to visit shops when they are trading at their busiest times e.g. during the lead up to Christmas.

Specific

A specific inspection is one that covers a range of instances and that requires something less than a thorough and comprehensive examination of the premises in question, but deals with one or more specific items at the request of the occupier of the premise. It may be instigated by the Service to check specifically on the availability of exits following a complaint or allegation from a member of the public etc.

Enforcement

- 2.9 The principle aim of the Nottinghamshire Fire and Rescue Service (NFRS) is to make Nottinghamshire a safer place by reducing as far as possible the risks and social and economic costs of fires and other dangers, without imposing

unnecessary burden. Securing compliance with legal regulatory requirements is an important part of achieving this aim.

- 2.10 The purpose of the enforcement function is to ensure that preventative remedial action is taken to protect relevant persons and to secure compliance with the regulatory system. The need for enforcement may stem from a lack of knowledge or a deliberate or negligent act. The term enforcement has a wide meaning and applies to all dealings between the Service and those on whom the law places a duty.
- 2.11 The purpose of enforcement is to:
- Promote and achieve sustained compliance with the law;
 - Ensure that the person responsible for premises subject to fire safety regulation takes action to deal immediately with serious risks to the safety of relevant persons.
 - Ensure those individuals, businesses and other undertakings that breach fire safety requirements are held to account, which may include bringing alleged offenders before the courts.
- 2.12 The Service has a wide range of interventions at its disposal to secure compliance with the law and to ensure a proportionate response to criminal offences. Officers may offer individuals, businesses and other undertakings information and advice either in person, in writing by letter or email, or over the telephone. This may include a warning that, in the opinion of the officer, they are failing to comply with the law. Where appropriate, officers may agree an action plan; provide a notification of deficiencies report or serve enforcement or alterations notice; prohibit or restrict the use of premises; or they may prosecute.
- 2.13 Enforcement notices, prohibition notices, and prosecutions are important ways to bring individuals, businesses and other undertakings to account for alleged breaches of the law. Where it is appropriate to do so and in accordance with this policy the Service will use one or more of these measures to secure compliance with fire safety law.
- 2.14 Investigating the circumstances encountered during audits or following incidents or complaints is essential before taking any enforcement action. In deciding what resources to devote to these investigations, the Service will have regard to the principles of enforcement and the objectives published in the Community Safety Plan.
- 2.15 A specialist role based team exists within the Fire Protection Department that deals with specific enforcement issues namely prohibition and restriction of premises and the responsibility for progressing fire safety breaches that may result in prosecution. There are six Officers within the team (all competent Fire Protection Inspecting Officers) and a number of shadow officers who gather certain skill sets and then are available to join the full team as required.

- 2.16 This team is facilitated by a Station Manager within the Fire Protection Support Team and will actively pursue litigation against those who breach the legislation in order to set a clear example that such breaches are unacceptable and a risk to public safety.

Enforcement Case Study

- 2.17 A recent prosecution brought by the Authority for serious fire safety breaches at two hotels in Mansfield was heard in the crown court at Nottingham in July of 2011. The responsible person at the Dial Hotel and the Market inn in Mansfield was jailed for eight months and ordered to pay £15,000 in costs.
- 2.18 The individual who runs Mansfield fire protection services, and provided risk assessment advice to the responsible person at the hotels was also jailed for eight months and ordered to pay £5,863.38 after pleading guilty to two breaches of fire safety requirements in relation to the inadequacy of fire risk assessments.
- 2.19 The judge in summing up stated:

The Fire Officers carried out an assessment of the premises, which you were in charge of and owned. They discovered very serious defects to the building.

The risk assessment that you produced to them, done by your co-Accused....was completely inadequate, and would have been apparent to any honest person that it was inadequate...

...they discovered that there were inadequate fire doors....which meant that a fire would have spread easily along the corridors of the premises and to the stairs, which would have compromised escape routes as a result of smoke logging and fire spreading, preventing evacuation of the premises as quickly and safely as possible.

There was a door at the bottom of a signed emergency exit staircase, but that was found to be locked. The door couldn't have been immediately opened by any person required to use it in an emergency. The escape exit routes were not kept clear. There was a mound of material on the stairs.

The emergency lighting was inadequate, and there was no emergency lighting within the staircase or bedroom corridors, there was no fire detection system. The fire extinguisher was not sufficiently maintained. The fire alarm and emergency lighting were not sufficiently maintained.

As a result of that, any member of the public staying at the premises were put at risk, and the risk was described by the Fire Officers as so serious that the Prohibition Notice had to be issued immediately.

....it seems to me that no one must be under any illusion that those who run hotels are under a very high duty, by the very nature of the fact that people – strangers, who are unaccustomed to the geography of the hotel - are staying

in the hotel. If there is a fire at night and they wake up, they might be confused. They might not wake up in time if the fire alarms are not satisfactory, or indeed not present.

The court takes a most serious view of offences of this nature.

- 2.20 In order to get a case of this nature to court requires a great deal of effort, technical expertise and invariably cost. To achieve a result that has such a resounding impact continues to contribute not only to improved Fire Safety Order compliance levels, but also to the safety of communities.

Unwanted Fire Signals

- 2.21 An Unwanted Fire Signal (UFS) is defined as a signal transmitted through an Automatic Fire Detection System (AFD) reporting a fire where upon arrival of the fire service it is found that a fire has not occurred. UFS are entirely avoidable through design, management practice, procedure, maintenance and the appropriate use of space within buildings.

- 2.22 The number of AFD systems installed in Nottinghamshire and the City of Nottingham is not known and, as Nottinghamshire Fire & Rescue Service has no direct control of these systems, the Service needs to be pro-active in influencing the management of such systems in order to reduce the adverse impact caused by UFS.

- 2.23 The principal areas of impact on the Service generated by UFS include;

- Diverting essential services from attending other more serious emergencies
- Increased risk of accidents and collisions as a result of the service responding under emergency conditions
- Demoralising to personnel through frequent attendance
- Disruption to the programmed activity of the Service, e.g. community fire safety education, fire prevention activities and operational training.
- Adverse affect on performance
- Significant financial burden.

- 2.24 The impact of UFS on the community includes;

- Disruption to business through downtime and loss of revenue
- Loss of credibility in the alarm system which may result in occupant complacency leading to inappropriate response in the event of a real fire
- Cost to business from retained duty system fire fighters being released from duty
- Impact on the environment caused by unnecessary appliance movements
- Drain on public finances

- 2.25 The strategy for reducing responses to UFS calls is based on the following principles:
- The use of clear protocols for call challenging by Fire Control staff. In most circumstances, where there is no risk to life, the caller will be asked to establish the cause of an alarm before Fire Control mobilises any PDA to the premises.
 - Liaising with and educating the responsible person taking full responsibility for the alarm system and all fire safety measures in his or her premises as detailed in the Regulatory Reform (Fire Safety) Order 2005.
 - The adoption of a robust off line policy whereby there is a delay in the signal being transmitted to the Service at certain times of the day.
 - The recognition that the key purpose of an alarm system is to give the occupiers of a premises warning that there may be a fire so that the occupiers can evacuate the premises or otherwise as directed by the premises Emergency Action Plan.
 - The adoption of a generic pre-determined attendance (PDA) based on risk assessments and call challenging protocols.
 - The introduction of protocols to ensure the safety of vulnerable people and high risk buildings.
 - The provision of appropriate protocols for control staff to support the mobilisation decision making process.
- 2.26 The implementation of the unwanted fire signal reduction policy has resulted in a reduction over the period December 2009 to July 2011 of 25.8 %. Actual numbers of calls received compared to unattended calls as a result of the application of the policy for the same period are; 7005 calls were received and of those 1807 were unattended.

The Localism Bill and Charging

- 2.27 The localism bill is currently going through its third reading in the House of Lords and is the main vehicle for the Government to enact its programme of decentralization within local authorities.
- 2.28 One element of the Localism Bill is the introduction of a 'General Power of Competence' for local councils. This power will give fire authorities the Legal capacity to do anything that an individual can, provided the authority is not specifically prohibited from undertaking the activity.
- 2.29 In addition to the general powers proposed, the Bill also amends the current restrictive charging regime in place for all fire and rescue authorities and aims to enable them to deliver more personalised effective and efficient services for individuals and communities.
- 2.30 The functions and actions of fire and rescue authorities are governed by statute primarily prescribed by the Fire and Rescue Services Act 2004. Wider general powers are intended to empower fire and rescue authorities with

greater freedoms and flexibilities to act in the interests of delivering their purpose.

- 2.31 The potential impact of wider general powers will simplify existing charging provisions by removing the order for what may be charged for and replacing with specific provisions where charging is not possible.
- 2.32 It is proposed that Section 19 of the Fire and Rescue Services Act 2004 will be amended to enable the simplified charging provisions but will retain the existing requirement that fire and rescue authorities are unable to charge for:
- Extinguishing fires, or protecting life and property in the event of fires, other than fires at or under the sea (which is an existing provision).
 - Emergency medical assistance.
- 2.33 The ability of authorities to charge for certain actions/services could lead to increased opportunities for revenue generation. However the focus is likely to be upon using charges to help influence better behavior e.g. reduction in automatic fire alarms.
- 2.34 NFRS Fire Protection Department is undertaking preparatory work by assessing the impact of charging and the risks associated with them, e.g. potential for alarm systems to be turned off and the associated risks that may ensue if a charging regime is adopted by the Authority for UFS.

Local Better Regulation

- 2.35 The department for Business Innovation and Skills (BIS) is currently consulting on extending the primary authority scheme to include fire and rescue authorities. Previously FRA's had little to do with this government department, but it is clear that the governments vision includes the fire and rescue service at the heart of joined up risk based local regulation.

3. FINANCIAL IMPLICATIONS

- 3.1 Although there are no direct financial implications arising from this report it is worthy of note that the cost of pursuing a conviction for a contravention of the Fire Safety Order is seldom fully recovered in the courts, however this financial burden is contained within the legal services budget.
- 3.2 Should the Localism Bill become statute consideration will be given to the potential to raise revenue through charging for specific services. Any such proposals will be presented to the Authority for consideration.

4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS

There are no human resources or learning and development implications arising from this report.

5. EQUALITIES IMPLICATIONS

An equality impact assessment has not been undertaken because the purpose of this report is to update Members on the progress of the Fire Protection Department and does not seek to change policy or procedures.

6. CRIME AND DISORDER IMPLICATIONS

There are no crime and disorder implications arising from this report.

7. LEGAL IMPLICATIONS

The Fire Authority is legally bound to pursue convictions for contraventions of the Fire Safety Order (2005). Furthermore there is a legal responsibility to mitigate risk and prevent fires within the Fire Services Act (2004). The activities of the Fire Protection Department assist the Authority in meeting these legal obligations.

8. RISK MANAGEMENT IMPLICATIONS

The work of the Fire Protection Department is a key strand to ensuring the Authority is managing risk within the community through a robust regime of inspection, information gathering and enforcement. Failure to undertake such work has the potential to affect the safety of the public and firefighters alike, and poses a real risk to the reputation of the Service.

9. RECOMMENDATIONS

Members are asked to note the contents of this report and continue to support the activities of the Fire Protection Department.

10. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)

None

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CHIEF FIRE OFFICER

